

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

<b>In the Matter of</b>	)	
	)	
<b>Petition for Rulemaking to Define</b>	)	<b>RM No. 10522</b>
<b>"Captured" and "New" Subscriber</b>	)	
<b>Lines for Purposes of Receiving</b>	)	
<b>Universal Service Support Pursuant</b>	)	
<b>To 47 C.F.R. § 54.307 et seq.</b>	)	

**COMMENTS OF SPRINT CORPORATION**

Sprint Corporation hereby submits its Comments in response to the Public Notice<sup>1</sup> requesting comments on National Telecommunications Cooperative Association's (NTCA) Petition for an Expedited Rulemaking.<sup>2</sup>

NTCA's Petition asks the Commission to adopt definitions of "captured" and "new" subscriber lines, as used in Commission Rule § 54.307 for determining which connections are eligible for Universal Service support. NTCA claims that these definitions are necessary to "close a loophole" in the current rule and "prevent the waste of tens of millions of dollars in duplicative universal service support"<sup>3</sup> More specifically, NTCA claims:

An expedited rulemaking is needed to prevent further erosion of high-cost support funding. Congress and the Commission never intended that multiple carriers each receive support for providing services in rural and high-cost areas to the same customer at the same time.<sup>4</sup>

---

<sup>1</sup> Public Notice, Consumer and Governmental Affairs Bureau Reference Information Center Petitions for Rulemaking Filed, Report No. 2567, August 8, 2002.

<sup>2</sup> National Telecommunications Cooperative Association Petition for Expedited Rulemaking, RM 10522, July 26, 2002 ("NTCA Petition").

<sup>3</sup> *Id.*, at p. 1.

<sup>4</sup> *Id.*, at p. 3.

NTCA is wrong on several counts. It is wrong when it states that "[t]he Commission needs to define terms and clarify its rules to prevent the harm that this accident is causing."<sup>5</sup> No clarification is needed, and there's been no accident. NTCA is wrong to claim that the fact that multiple carriers receive support for the same customers is caused by a "loophole" in the rule. And, it is wrong when it claims that the Commission never intended for multiple carriers to receive support for the same customer.

In fact, quite the contrary is true. In its 1997 USF Order,<sup>6</sup> the Commission knowingly and intentionally adopted a universal service support system that, at least for a time, provides multiple carriers with support for the same customer. The Commission rejected the Joint Board's recommendation that support be limited to a single connection to a subscriber's primary residence and to businesses with only a single connection. In fact, as to wireless connections, the Commission explicitly stated: "We do not adopt, at this time, a rule stating that a wireless carrier may receive support only if the wireless carrier is a customer's primary carrier and the customer pays unsubsidized rates for its wireline service, ...."<sup>7</sup>

However, the Commission also stated that it would continue to evaluate the Joint Board's single connection recommendation.<sup>8</sup>

As we determine how to calculate forward-looking cost, or as states do so in state-conducted cost studies, we necessarily will examine the forward-looking economic cost of supporting additional residential connections or

---

<sup>5</sup> *Id.*, at p. 11.

<sup>6</sup> In the Matter of Federal-State Board on Universal Service, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776 (1997) ("1997 USF Order")(Subsequent history omitted.)

<sup>7</sup> *Id.*, at para. 146.

<sup>8</sup> *Id.* at para. 96.

multiple connection businesses. Depending on how we determine the forward-looking economic cost of the primary residential connection, for example, there may be little incremental cost to additional residential connections. In that case, for instance, there would be no need to support additional residential connections.

To date, this evaluation, or reexamination, has not occurred. The rule remains one of support for multiple connections.

Accordingly, NTCA's petition requesting Commission adoption of definitions to implement a single or primary connection universal service system, ahead of such a system being adopted, is premature and far too narrow in scope. Accordingly, the petition should be denied. If the Commission determines that now is the time to reevaluate its policy of allowing support for multiple connections and to consider whether to impose a primary connection system, then it should do so pursuant to a much broader rulemaking than that requested by NTCA. If the Commission decides to so proceed, then in addition to a thorough investigation of forward-looking cost, as called for in the 1997 USF Order, there are numerous additional factors that the Commission must also consider.

One of the first, and most important, issues that must be addressed is the definition of "primary connection." Is it really, as NTCA suggests, the first connection in time? Does such a scheme truly recognize what the customer considers their primary connection or how the customer uses their phones? Does it truly support the goal of competitive and technology neutrality, or does it favor incumbent, wireline connections because, in many cases, those were the first in time? Of course, with an increasingly mobile society, a customer's wireless connection may move, with the customer, from home to home. Thus, the wireless connection may well be first in time, even though that

particular customer may still rely on the wireline connection as the primary means of telecommunication, including for emergency purposes, even though it was established later in time. In other words, one size probably does not fit all.

Likewise, NTCA's suggestion that billing address be used to identify which connection is primary would seem unlikely to work for all situations. While it may make sense for wireless connections that have no service address, it makes little sense for wireline connections where the billing address does not necessarily have a connection with the service address and may not accurately reflect whether the customer is in a rural or high-cost area.

Another critical question is whether the primary connection should be applied on a per household (location) or per individual basis. The 2000 census<sup>9</sup> lists over 5.4 million unmarried partner households in the United States. Is each partner entitled to a primary connection? Only one partner? Which one - the one that acts first?

The Commission's goal of promoting competitive and technology neutrality must also be considered. If only one connection receives support then other carriers will need to find another way to meet the high cost of serving that customer. Price increases may not be available either because of competitive pressures or, in the wireline context, because of the regulatory constraints that ILECs and, in many states, CLECs are under with regard to basic local telephone service rates. Thus the Commission will need to consider whether a primary connection universal service system will stifle competition in the rural or high cost areas or, at the very least, wireline competition.

---

<sup>9</sup> <http://censtats.census.gov/data/US/01000.pdf>

In conclusion, NTCA's petition is not ripe and too narrow. Instead of putting the cart before the horse, as NTCA suggests, by implementing a primary connection system before such a system has been adopted, the Commission must first decide whether it wants to review the issue of primary connection versus multiple connections. If it does, then that review should be made through a Further Notice of Proposed Rulemaking and should include a complete and thorough investigation of, not only forward looking costs, but also numerous other issues such as those set forth by Sprint above.

Respectfully submitted,

SPRINT CORPORATION

By           //s//            
Jay C. Keithley  
Richard Juhnke  
Roger Sherman  
401 9<sup>th</sup> Street, NW, #400  
Washington, DC 20004  
(202) 585-1920

Craig T. Smith  
6450 Sprint Parkway  
Overland Park, KS 66251  
(913) 315-9172

September 23, 2002

## CERTIFICATE OF SERVICE

I, Joyce Y. Walker, hereby certify that I have on this 23rd day of September 2002, served, a copy of the foregoing document, "In the Matter of Petition for Rulemaking to Define "Captured" and "New" Subscriber Lines", RM-10522, with the Secretary, Federal Communications Commission.

    //s//      
Joyce Y. Walker